



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

July 19, 2006

Drew Smith, Treasurer
Democratic Party of Arkansas
1300 West Capitol Avenue
Little Rock, AR 72201

Response Due Date:
August 18, 2006

Identification Number: C00024372

Reference: June Monthly Report (5/1/06 – 5/31/06)

Dear Mr. Smith:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **An adequate response must be received at the Commission by the response date noted above.** An itemization of the information needed follows:

-The totals listed on Lines 11(a)(i), 11(a)(ii), 11(a)(iii), and 11(c), Column B of the Detailed Summary Page appear to be incorrect. Please be advised that you should add the "Calendar Year-to-Date" total from your previous report to the current "Total This Period" figure from Column A to derive the correct Column B totals. Please amend your report and any subsequent reports that may be affected by this correction.

-On Schedule A supporting Line 17 of the Detailed Summary Page, your committee discloses a receipt totaling \$10,876.28 from "Regions Bank" for "Bank error - to be corrected in June." Please amend Schedule A by providing the full name and address of the original source(s) for these receipts.

-Schedule A supporting Line 11(c) of your report discloses receipts from "Marion Berry For Congress," "Mark Pryor for U. S. Senate," "Mike Ross for Congress Committee," and "Snyder for Congress" which require further clarification. For example, if this activity represents a transfer of funds, please indicate "transfer" on Schedule A supporting Line 11(c) of your report. If this activity represents a reimbursement for services provided to this committee, please indicate this on Schedule A supporting Line 15 of

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your report. Please amend your report to clarify the type of activity this receipt(s) represents.

-Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "Insurance," "Payroll Taxes," "salary," and "Salary." Please be advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must not be allocated between or among federal and non-federal accounts. Rather, only federal funds may be used. Further, the Commission concluded in Advisory Opinion 2003-11 that amounts spent for employee-specific "fringe benefits," consisting of health insurance, disability insurance, life insurance, retirement benefits and payroll taxes, fall into the category of compensated time.

Any reimbursement from your committee's non-federal account for this payment is not permissible and must be returned. Although the Commission may take further legal action regarding this improper allocation activity, your prompt action will be taken into consideration.

-Schedule H4 of your report discloses \$480.00 in payments for "Contract Labor," "Janitorial," and "Lawn Service" to individuals. Please clarify whether these individuals are employees of your committee. You are advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must not be allocated between or among federal, non-federal and Levin accounts. Rather, only federal funds may be used. Any reimbursement from your committee's non-federal or Levin account for salary and wage payments is not permissible and must be returned. Please provide clarification regarding these payments.

-Schedule H4 of your report discloses a voided or returned check for an expenditure made during this or previous reporting periods. Please clarify if and when this check was reissued. If it was not reissued, please clarify the steps your committee has taken to account for the federal portion of this voided or returned check in order to avoid the acceptance of a prohibited in-kind contribution.

-Schedule H4 of your report discloses a payment(s) for "Display Posters" in the Voter Drive category. Please be advised that 11 CFR §100.24(b) defines as Federal Election Activity, Voter identification, Generic

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Campaign and Get-out-the vote activities conducted in connection with an election in which one or more candidates for Federal office appear on the ballot. Furthermore, the costs for these types of Federal Election Activity must either be paid with federal funds or can be allocated between federal and Levin funds as long as the activity conducted does not refer to a clearly identified candidate for Federal office. It appears that you have allocated these costs between federal and non-federal funds. Any reimbursement from your committee's non-federal account for Federal Election Activity costs is not permissible and must be returned. 11 CFR §§300.32 and 300.33

Please inform the Commission of your corrective action immediately or provide clarifying information regarding this activity. Although the Commission may take further legal action regarding this apparent prohibited activity, your prompt action will be taken into consideration.

-Schedule B of your report discloses a \$1,500.00 transfer to your non-federal account for what appears to be the federal account's share of an in-kind corporate contribution(s) to the non-federal account. Pursuant to Advisory Opinion 1992-33, the Commission concluded that a party committee may accept corporate in-kind contributions in connection with fundraising activities as long as the federal share of goods and services is paid or transferred to the non-federal account *in advance or upon receipt* of the acceptance of the corporate in-kind donations by the federal account. It appears that the federal share of the in-kind donation(s) received by your committee was not transferred to the non-federal account in advance or upon receipt of the acceptance of the corporate in-kind donation(s).

Please clarify the procedures that you are currently using regarding the acceptance of corporate in-kind contributions by the federal account and amend your report if necessary.

Although the Commission may take further legal action concerning the acceptance of a prohibited in-kind contribution, your prompt action in transferring the federal share to the non-federal account will be taken into consideration.

-Your report discloses in-kind contributions ("donations") from "Bylites Inc." on Schedules A and H4. Pursuant to Advisory Opinion 1992-33, the Commission concluded that a party committee may accept corporate in-kind donations in connection with fundraising activities as long as the federal share of goods or services is paid or transferred to the non-federal

account upon receipt of or in advance of the acceptance of the corporate in-kind donations by the federal account.

Advisory Opinion 1992-33 also discloses a detailed method for reporting the receipt and use of in-kind contributions as follows:

1. The transfer of the in-kind corporate contribution from the non-federal account to the federal account should be disclosed on Schedule H3. The itemization on Schedule H3 should include the date the Committee received the in-kind contribution, the amount of the contribution and the fundraising event involved.
2. The use or expenditure of in-kind corporate contributions should be disclosed on Schedule H4 as non-federal share disbursements. The itemization should provide the same donor identification information required on a Schedule A for in-kind contributions for Federal elections.
3. A second entry on Schedule H4 should then disclose the advance or contemporaneous payment of the federal account's share of the in-kind corporate contribution to the non-federal account.

Please amend your report to properly disclose the in-kind corporate contributions received by your committee by providing all of the transactions described above (example enclosed).

-Please amend your report by providing the address for each disbursement itemized on Schedule H4.

-Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule H4 of your report to clarify the following description(s): "Contract Labor," "Equipment Rental," "Licensing Fee," and "Sard Service." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

-Schedule H4 of your report discloses reimbursements to individuals for "Batteries," "Flowers," "Office Supplies," "snacks & drinks," and "Vack Bags Soap etc." Please be advised that when itemizing reimbursements to individuals for goods or services, payment to the original vendors must be itemized as memo entries regardless of amount. Each memo entry must include the name and address of the original vendor, as well as the date, amount and purpose of the original purchase must be provided. Please

amend your report to include the missing information and clearly identify on the Schedule H4, which reimbursement each memo entry relates to. 11 CFR §§104.10 and 104.17, and Advisory Opinions 1992-1 and 1996-20, footnote 3

-Schedule H4 of your report discloses a reimbursement(s) to an individual(s) for apparent travel and subsistence advances in which the total amount reimbursed exceeds \$500. When the reimbursement amount to staff for travel and subsistence advances exceeds \$500, the payments by committee staff that make up the reimbursement have to be itemized as memo entries regardless of the amount. Each memo entry must include the complete name and address of the original vendor, as well as the date, amount and an adequate purpose. Please amend your report to include the missing information and clearly identify on the Schedule H4, which reimbursement each memo entry relates to. 11 CFR §§104.10 and 104.17, and Advisory Opinion 1996-20, footnote 3

-Please clarify all expenditures made for "Equipment Rental" on Schedule H4. If a portion or all of these expenditures were made on behalf of specifically identified federal candidates, this amount should be disclosed on Schedules B, E, or F supporting Lines 23, 24, or 25 and include the amount, name, address and office sought by each candidate. 11 CFR §§104.3(b) and 106.1

Alternatively, if the payment(s) on Schedule H4 is associated with fundraising activity conducted for your committee's federal and non-federal accounts, it must be allocated according to the funds received method and the ratio reflected on Schedule H2. Further, it must be categorized as a fundraising activity on Schedule H4. Please provide clarifying information regarding the nature of this transaction(s) and amend your report(s) as appropriate.

-Your report discloses a loan from a lending institution; however, you have not submitted a paper Schedule C-1 and a copy of the loan agreement. As an electronic filer, you must submit the Schedule C-1 electronically without the original signature from the lending institution. In addition, you must mail a copy of the loan agreement and a separate copy of the Schedule C-1 that contains the original signature from the lending institution. Please submit the missing documents. (11 CFR §§104.3(d)(2) and 104.18(h))

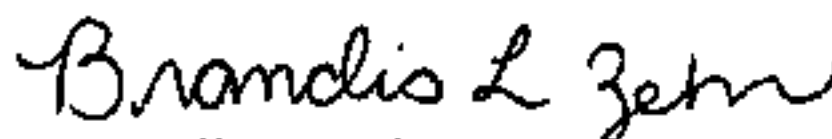
Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses received on or before this date will be taken into

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consideration in determining whether audit action will be initiated. **Requests for extensions of time in which to respond will not be considered.** Failure to provide an adequate response by this date may result in an audit of the committee. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1148.

Sincerely,



Brandis L. Zehr

Campaign Finance Analyst

Reports Analysis Division

Line 15 of the Form 3X Detailed Summary Page. The committee uses Schedule H4 to disclose the federal account's \$256 transfer to the nonfederal account for the nonfederal share.

10. Prohibited In-Kind Donations for Allocable Activities

While contributions from corporations, labor organizations and federal government contractors are prohibited under federal law, they are permissible under some state laws. If that is the case, such donations may be accepted by a nonfederal account for strictly nonfederal activity. However, the situation is more complicated when donations of goods or services from such sources are made in connection with allocable activity, such as a fundraiser at which both federal and nonfederal funds are collected.

In AO 1992-33, the Commission explained how a committee can legally accept an in-kind donation from a prohibited source in connection with an allocable administrative or fundraising activity. Note that the Commission has not addressed the receipt of in-kind donations from prohibited sources for the other types of allocable expenses (i.e., generic voter drives and candidate support activity).

Advance Payment of Federal Share

To avoid the receipt of a prohibited contribution by the federal account, that account must pay the nonfederal account for the federal share of the in-kind donation. This payment—a transfer to the nonfederal account—must be made in advance or on the date the goods or services are received.

Per-Transaction Transfers

The federal transfer may be made on a per-transaction basis—that is, shortly before or on the same day the in-kind donation is received.

Escrow Transfers

Alternatively, the federal account may make bulk transfers to cover the federal share of anticipated in-kind donations. Under this "escrow" arrangement, a committee makes a good faith estimate of the amount of in-kind donations that it expects to receive and transfers sufficient funds from the federal account to cover the federal share.

Adjustments

Should the federal account pay more than its share of an in-kind donation, adjustment transfers from the nonfederal account are permissible.

Basic Reporting of In-Kind Donations: Example

On October 1, a state party committee receives a \$5,000 in-kind donation of flowers from a corporation for a federal/nonfederal fundraiser ("Chairman's Gala"). The estimated allocation ratio for the fundraiser is 50 percent federal and 50 percent nonfederal. That same day, the federal account transfers its share of the in-kind donation (\$2,500) to the nonfederal account.

Required Forms

- Schedule H2—Allocation Ratios
- Schedule H3—Transfers from Nonfederal Account
- Schedule H4—Payments for Allocable Expenses

RECEIPT OF IN-KIND DONATION (H3)

SCHEDULE H3 (FEC Form 3X) TRANSFERS FROM NON-FEDERAL ACCOUNTS FOR SHARED FEDERAL / NON-FEDERAL ACTIVITY			PAGE 1 OF 1 FOR LINE 11b OF FORM 3X
NAME OF COMMITTEE (in full) Freedom Party State Committee			
NAME OF ACCOUNT Nonfederal Account	DATE OF RECEIPT 10 01 2004	TOTAL AMOUNT TRANSFERRED 5,000.00	
BREAKDOWN OF TRANSFER RECEIVED			
a) Total amount received			
b) General Voter Drive			
c) Campaign Activities			
d) Other Fundraising (List Activity or Event Identifier)			
a) Chairman's Gala - In Kind		5,000.00	

DISBURSEMENT OF IN-KIND DONATION; FEDERAL TRANSFER (H4)

SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE			PAGE 1 OF 1 FOR LINE 21b OF FORM 3X
NAME OF COMMITTEE (in full) Freedom Party State Committee			
A. Full Name (Last, First, Middle Initial) Pretty Flowers, Inc.		Allocated Activity or Event: <input type="checkbox"/> Administrative <input checked="" type="checkbox"/> Fundraising <input type="checkbox"/> Campaign	
Mailing Address 111 Polkman Path City ST 00000		<input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support	
Purpose of Disbursement: Flowers - In Kind Activity or Event Identifier: Chairman's Gala		Allocated Activity or Event Year-To-Date 21,000.00	
FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT 0.00 + 5,000.00 = 5,000.00		Date: 10 01 2004	
B. Full Name (Last, First, Middle Initial) Freedom Party State Committee		Allocated Activity or Event: <input type="checkbox"/> Administrative <input checked="" type="checkbox"/> Fundraising <input type="checkbox"/> Campaign	
Mailing Address 111 Politics St. City ST 00000		<input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support	
Purpose of Disbursement: Transfer of Federal Share of In Kind Activity or Event Identifier: Chairman's Gala		Allocated Activity or Event Year-To-Date	
FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT 2,500.00 + 0.00 = 2,500.00		Date: 10 01 2004	

Schedule H3—Receipt of In-Kind Donation

The committee reports the receipt of the in-kind donation as a transfer from the nonfederal account for the "Chairman's Gala" fundraiser. The date used here is the date the committee received the flowers.

"Disbursement" of In-Kind Donation (H4)

Like in-kind contributions, in-kind donations must be reported as both receipts and disbursements so as not to inflate the cash-on-hand balance. (The disbursement side reflects the use or "expenditure" of the resources.) Schedule H4 is used for the disbursement entry, which shows the \$5,000 in-kind donation as a 100 percent nonfederal disbursement. The donor's name and address is disclosed in the box generally used for payees.

Transfer from Federal Account (H4)

The second entry on Schedule H4 shows the contemporaneous transfer of \$2,500 (the federal share of the donation) from the federal account to the nonfederal account. The explanation of the transfer is described in the "Purpose" box, with a reference to the previous entry.

Alternative Reporting Method

To minimize entries and avoid duplication, a committee may use alternative methods to report transactions relating to in-kind donations.

The committee may use one entry on Schedule H3 to show the receipt of all in-kind donations made within the same reporting period for a particular fundraising program or event (or administrative activity).

The committee may also use one entry on Schedule H4 to show total federal payments (transfers) made on the same day for the federal share of in-kind donations.

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